

**ORDINANCE NO. 1587**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to state-licensed marijuana producers, processors and retailers as regulated pursuant to chapter 69.50 RCW, adding a new chapter to Title 18 DMMC entitled "State-Licensed Marijuana Producers, Processors, and Retailers," and codifying a new chapter in Title 18 DMMC.

**WHEREAS**, on November 6, 2012, Initiative Measure 502, relating to marijuana, was passed by the voters of the State of Washington, and

**WHEREAS**, Initiative Measure 502 calls for the establishment of a regulatory system licensing producers, processors, and retailers of recreational marijuana for adults twenty-one (21) years of age and older, legalizes the possession and private recreational use of marijuana, and requires the Washington State Liquor Control Board (WSLCB) to adopt procedures and criteria by December 1, 2013 for issuing licenses to produce, process, and sell marijuana, and

**WHEREAS**, the WSLC adopted rules pertaining to the licensing of marijuana producers, processors, and retailers, effective November 16, 2013, and

**WHEREAS**, the adoption of land use and zoning regulations is a valid exercise of the City's police powers and is specifically authorized by RCW 35A.63.100, and

**WHEREAS**, the SEPA responsible official issued a determination of non-significance (DNS) on October 16, 2013, with the public appeal period ending November 12, 2013, and the accompanying comment and appeal periods have lapsed, and

**WHEREAS**, in accordance with the law, the duly noticed public hearing before the City Council was held on November 14, 2013, and all persons wishing to be heard were heard, and

**WHEREAS**, proper and timely notice was given to the Washington State Department of Commerce of these amendments to Title 18 DMMC as required by chapter 36.70A RCW, and

**WHEREAS**, the City Council finds that the regulatory licensing requirements established by this Ordinance are

necessary for the immediate preservation of the public health and safety; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1. Creation of new chapter.** A new chapter is added to Title 18 DMMC.

**Sec. 2. Title.** This chapter shall be entitled "State-Licensed Marijuana Producers, Processors, and Retailers."

**Sec. 3. Application.** This chapter applies to state-licensed marijuana producers, processors, and retailers.

**Sec. 4. Purpose.** The purpose of this chapter is to provide regulations and zoning standards for producers, processors, and retailers of recreational marijuana licensed by the State of Washington, pursuant to chapter 69.50 RCW and rules adopted by the WSLCB.

**Sec. 5. Authority.** This Title is adopted pursuant to chapter 69.50 RCW and other applicable Washington laws.

**Sec. 6. Definitions.** The definitions provided in RCW 69.50.101 and WAC 314-55-010 are adopted by reference.

**Sec. 7. Recreational marijuana regulations for producers and processors.** State-licensed marijuana producers and marijuana processors may locate in the City of Des Moines pursuant to the following restrictions:

(1) Marijuana producers and marijuana processors must comply with all requirements of chapter 69.50 RCW, chapter 314-55 WAC, and other applicable Washington laws.

(2) Persons may conduct business within the City of Des Moines as a state-licensed marijuana producer and/or marijuana processor if located within the Business Park (B-P) Zone located north of South 216th Street and south of South 208<sup>th</sup> Street, and within the Highway Commercial (H-C) and Community Commercial (C-C) Zones generally located along Pacific Highway South south of Kent-Des Moines Road.

(3) Marijuana producers and processors shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any location or zone other than those referenced in subsection 2 above.

(4) Marijuana producers and processors shall not operate as an accessory to a primary use or as a home occupation.

**Sec. 8. Recreational marijuana regulations for retailers.** State-licensed marijuana retailers may locate in the City of Des Moines pursuant to the following restrictions:

(1) Marijuana retailers must comply with all requirements of chapter 69.50 RCW, chapter 314-55 WAC, and other applicable Washington laws.

(2) Persons may conduct business within the City of Des Moines as a state-licensed marijuana retailer if located within the Highway Commercial (H-C) and Community Commercial (C-C) Zones generally located along Pacific Highway South south of Kent-Des Moines Road.

(3) Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any location or Zone other than those referenced in subsection 2 above.

(4) Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.

**Sec. 9. Location of a state licensed marijuana producer, processor or retailer.** The location of a state-licensed marijuana producer, processor, and retailer shall be as established in WAC 314-55-050 and as required under this chapter. The owner or operator of the state-licensed marijuana producer, processor, and retailer shall have the responsibility to demonstrate that the state-licensed marijuana producer, processor, and retailer meets the location requirements of WAC 314-55-050.

**Sec. 10. Codification.** Sections 1 through 9 of this Ordinance shall be codified as a new chapter in Title 18 DMMC

entitled "State-Licensed Marijuana Producers, Processors, and Retailers."

**Sec. 11. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

**Sec. 12. Effective date.** This Ordinance shall take effect and be in full force five (5) days after its passage and approval in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this 14th day of November, 2013 and signed in authentication thereof this 14th day of November, 2013.

M A Y O R

APPROVED AS TO FORM:

Assistant City Attorney

ATTEST:

City Clerk

Published: November 19, 2013

LEGAL NOTICE  
SUMMARY OF ADOPTED ORDINANCE  
CITY OF DES MOINES

ORDINANCE NO. 1587, Adopted November 14, 2013.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to state-licensed marijuana producers, processors and retailers as regulated pursuant to chapter 69.50 RCW, adds a new chapter to Title 18 DMMC entitled "State-Licensed Marijuana Producers, Processors, and Retailers," and codifies a new chapter in Title 18 DMMC.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins  
City Clerk

Published: November 19, 2013